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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re Marriage of SHANNA J.
and CHARLES A. HAMM.

2d Civil No. B287872
(Super. Ct. No. SD037480)
(Ventura County)

SHANNA J. HAMM,

Petitioner,

v.

CHARLES A. HAMM,

Appellant;

VENTURA COUNTY
DEPARTMENT OF CHILD
SUPPORT SERVICES,

Intervener and Respondent.

This is an appeal from orders of the family law court dismissing appellant's action for fraud and denying his request to modify child support. We affirm.

FACTS

Shanna and Charles Hamm were married in 1998. There are three children of the marriage. The marriage was dissolved in 2009. Initially both parties shared legal and physical custody of all three children. In 2016, the oldest child elected to live with Shanna and the middle child elected to live with Charles.¹ Only the youngest child splits his time between both parents. The oldest child became emancipated in October 2017. The Ventura County Department of Child Support Services (the Department) has been providing services to the children since 2008.

Charles brought a motion in his family law case seeking damages from Shanna for misrepresenting health and medical insurance costs on 10 occasions, and inducing the court to issue child support orders and deny modifications based on those misrepresentations. Charles also sought damages from the Department for failing to disclose the fraud to the court when it was discovered.

Charles's motion was apparently based on the theory that the health insurance provider Shanna chose, Liberty Healthcare (Liberty), does not meet the definition of health insurance under Family Code section 3750.² Charles also claimed that Shanna should not be credited with the cost of health insurance because Medi-Cal provided health insurance for the children.

The trial court denied Charles's request for damages on the ground that the family court has no jurisdiction over a civil action for damages. The denial was without prejudice to raising the matter properly in a civil action.

¹ We refer to the parties by their first names not from disrespect, but to ease the reader's task.

² All statutory references are to the Family Code.

At the hearing the Department's counsel described Liberty as a "kind of communal sharing health expenses." Counsel stated that Liberty's website states it is not an insurance company, and that it does not guarantee its members medical bills will be paid or assigned to others for payment.

Shanna testified she pays \$529 per month to Liberty for coverage for herself and her two children. She said Liberty is very similar to traditional health insurance. A member pays a monthly fee. When a member goes to the doctor, the member presents a card from Liberty and the doctor's office forwards the bill to Liberty. Shanna got a quote from Anthem and another insurance company. They wanted \$1,500 per month. She could not afford that amount.

After the hearing the trial court allowed Shanna a \$529 health insurance credit in calculating Charles's child support obligation.

DISCUSSION

I

Charles contends the trial court erred in dismissing his fraud action.

The trial court dismissed Charles's fraud action on the ground that a motion in family court is not the proper procedure for such an action. Charles cites no authority showing the trial court is wrong.

Moreover, Charles unsuccessfully raised the same fraud allegations in a previous motion. The trial court denied his request for damages on the merits under the statute of limitations. (See *Hamm v. Hamm* (May 1, 2018, B278972) [nonpub opn.]) His claims are res judicata and he is forever

barred from raising them again. (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896-897.)

II

Charles contends the trial court abused its discretion in allowing Shanna a deduction for health insurance provided by Liberty.

Section 3750, subdivision (b) provides that “[h]ealth insurance coverage” includes: “Provision for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to a dependent child of an absent parent.”

Shanna testified that Liberty works like traditional health insurance. A member pays a monthly fee. When a member goes to a doctor, the member presents a Liberty card and the doctor’s office forwards the bill to Liberty. The trial court could reasonably conclude that Liberty qualifies as health insurance under section 3750, subdivision (b).

Charles interprets the term “delivery” in section 3750, subdivision (b) to mean a “guarantee of services.” Charles cites no authority to support his contention. We interpret the language of a statute in accordance with its plain, commonsense meaning. (*California School Employees Assn., Tustin Chapter No. 450 v. Tustin United School Dist.* (2007) 148 Cal.App.4th 510, 517.) The plain meaning of “delivery” does not include “guarantee of services.” Not even well established health insurances such as Blue Cross guarantee delivery of services.

Charles’s argument that Liberty’s cost is not reasonable is waived for failure to raise the argument in the trial court. (*Dimmick v. Dimmick* (1962) 58 Cal.2d 417, 422-423.)

The orders are affirmed. Costs are awarded to the
Department.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

William R. Redmond, Commissioner

Superior Court County of Ventura

Charles A. Hamm, in pro. per., for Appellant.

Xavier Becerra, Attorney General, Julie Weng-Gutierrez,
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